IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 6TH FEBRUARY 2007 / 17TH MAGHA 1928

OP.No. 760 of 2003(Y)

PETITIONER:

THE DHANALAKSHMI BANK LTD.
REGD.OFFICE, DHANALAKSHMI BUILDING,
THRISSUR
REPRESENTED BY MANAGER, VALANCHERRY BRANCH,
SHRI.B.SETHURAMAN.

BY ADV. SRI.C.K.KARUNAKARAN
SRI.C.E.UNNIKRISHNAN

RESPONDENTS:

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1. THE DISTRICT COLLECTOR,
MALAPPURAM DISTRICT.

2. THE TAHSILDAR, TIRUR, MALAPPURAM.

3. VILLAGE OFFICER, EDAYUR,
MALAPPURAM.

4. DIVISIONAL FOREST OFFICER, PALAKKAD.

5. SMT.C.P.SAFIYA, W/O.SHOUKATH,
CHUZHALIPURATHU HOUSE, PROPRIETRIX,
K.H.WOOD INDUSTRIES, EDAYUR NORTH P.O.,
MALAPPURAM DISTRICT.

6. M/S. K.H.TIMBERS, EDAYUR NORTH P.O.,
MALAPPURAM DISTRICT.

7. STATE OF KERALA, REPRESENTED BY CHIEF
SECRETARY.

BY GOVERNMENT PLEADER – ADV. SMT.SMITHA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 06/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.No. 760/2003

ORDER ON CMP NO. 1360/2003 IN O.P.No. 760/2003

DISMISSED.

06/02/2007 SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1 COPY OF THE JUDGMENT AND DECREE IN O.S.No. NO.74/1999 DATED 27/10/2000 OF THE SUB ORDINATE JUDGE, TIRUR.

EXT.P2 COPY OF THE NOTICE NO.PRI.1/2002-03/LIOD DATED 05/11/2002.

EXT.P3 COPY OF THE NOTICE NO.PRI.1/2002-03/LIOD DATED 21/11/2002.

EXT.P4 COPY OF THE 3RD RESPONDENT'S LETTER NO.266/2002 DATED 05/12/2002.

EXT.P5 COPY OF THE PETITIONER'S LETTER DATED 05/12/2002.

EXT.P6 COPY OF THE NOTICE NO.PRI.1/2002-03/LIOD DATED 27/12/2002 UNDER SEC. 36 OF THE RR ACT.

EXT.P7 COPY OF THE PETITIONER'S LETTER DATED 03/01/2003 TO THE 1ST RESPONDENT.

// TRUE COPY //

PA TO JUDGE

jg

C.N.RAMACHANDRAN NAIR, J.

O.P. No. 760 of 2003 M

Dated, this the 6th day of February, 2007

J U D G M E N T

The petitioner is challenging the Government's claim over the defaulter's property for recovery of forest dues, the attachment over which property petitioner obtained through decree based on mortgage. The learned Government Pleader submits that issue is covered in favour of the State, vide decision of this Court, reported in **2004(3) KLT 1089** ***(Sherry Jacob Vs. Canara Bank),*** which pertains to sales tax liability. Property is 20 cents and the amount due is only about Rupees one lakh. If the sale of property will fetch sufficient amount to settle Government dues and liability due to the petitioner, petitioner cannot have any grievance at all. In the circumstances, Tahsildar is directed to sell the property in public auction, where petitioner is also free to participate, so that sale is made at the highest market price. The petitioner can thereafter file a claim petition before the Tahsildar based on decree. The Tahsildar will based on the above decision and statutory provisions consider the petitioner's claim and if Government has priority, the amount will be first appropriated towards Government dues and balance will be paid to the petitioner Bank. On the other hand, if Government has no priority, payment will be made to petitioner first and balance will be appropriated towards Government dues.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg